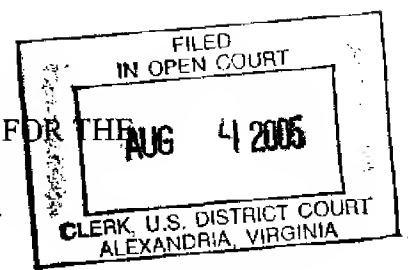


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



| | | |
|----------------------------|---|-------------------------------------------------------|
| UNITED STATES OF AMERICA |) | CRIMINAL NO. 1:05CR225 |
| |) | |
| v. |) | <u>Count 1</u> : Conspiracy to communicate national |
| |) | defense information to persons not entitled to |
| LAWRENCE ANTHONY FRANKLIN, |) | receive it, 18 U.S.C. §§ 793(d), (e) and (g) |
| (Counts 1 through 5) |) | |
| |) | <u>Counts 2-4</u> : Communication of national defense |
| STEVEN J. ROSEN, |) | information to persons not entitled to receive it, |
| (Counts 1 and 3) |) | 18 U.S.C. § 793(d) |
| |) | |
| KEITH WEISSMAN, |) | <u>Count 5</u> : Conspiracy to communicate classified |
| (Count 1) |) | information to agent of foreign government, |
| |) | 50 U.S.C. § 783, 18 U.S.C. § 371 |
| |) | |
| Defendants. |) | |

SUPERSEDING INDICTMENT

AUGUST 2005 TERM - AT ALEXANDRIA

THE GRAND JURY CHARGES THAT:

General Allegations

At all times material to this indictment:

1. Defendant LAWRENCE ANTHONY FRANKLIN was employed by the United States government at the Department of Defense (DoD) in the Office of the Secretary of Defense (OSD), International Security Affairs (ISA), Office of Near East and South Asia, Office of Northern Gulf Affairs, Iran desk, and held a Top Secret security clearance with access to Sensitive Compartmented Information (SCI). FRANKLIN's office was located within the Pentagon, in the Eastern District of Virginia. FRANKLIN was also a Colonel in the United States Air Force Reserve (USAFR).

2. Throughout his employment with the United States government, FRANKLIN repeatedly signed written agreements acknowledging his duty to safeguard classified information:

- On or about July 31, 1979, FRANKLIN signed a Defense Intelligence Agency (DIA) Secrecy Agreement, by which he acknowledged that he would never divulge any classified information relating to the national security without prior consent of the Director of the Defense Intelligence Agency or his designated representative. FRANKLIN further acknowledged that the burden was his to ascertain whether information is classified and who is authorized to receive it. FRANKLIN acknowledged that he had read and understood the provisions of the Espionage Act, including 18 U.S.C. § 793, 794 and 798.
- On or about December 8, 1999, FRANKLIN signed a Classified Information Nondisclosure Agreement, a Standard Form 312 (SF-312). In that document FRANKLIN acknowledged that he was aware that the unauthorized disclosure of classified information by him could cause irreparable injury to the United States or could be used to advantage by a foreign nation and that he would never divulge classified information to an unauthorized person. He further acknowledged that he would never divulge classified information unless he had officially verified that the recipient was authorized by the United States to receive it. Additionally, he agreed that if he was uncertain about the classification status of information, he was required to confirm from an authorized official that the information is unclassified before he could disclose it.
- On or about June 5, 2001, FRANKLIN orally attested that he fully understood his responsibility to protect national security information and would adhere to the provisions of the SF-312. By doing so, FRANKLIN again acknowledged that he was aware that the unauthorized disclosure of classified information by him could cause irreparable injury to the United States or could be used to advantage by a foreign nation and that he would never divulge classified information to an unauthorized person. He again acknowledged that he would never divulge classified information unless he had officially verified that the recipient was authorized by the United States to receive it. Additionally, he again agreed that if he was uncertain about the classification status of information, he was required to confirm from an authorized official that the information is unclassified before he could disclose it. He again acknowledged that any unauthorized disclosure of classified

information by him may constitute a violation, or violations of criminal laws, including 18 U.S.C. § 793, 794 and 798 and 50 U.S.C. § 783.

- On or about July 17, 2001, FRANKLIN signed an SCI Nondisclosure Statement in conjunction with his employment at the DoD/OSD. FRANKLIN acknowledged that he was granted access to classified information protected as SCI and that he received a security indoctrination addressing the nature and protection of SCI information. In this document, FRANKLIN again acknowledged that he had been advised that the unauthorized disclosure of SCI by him could cause irreparable injury to the United States or be used to advantage by a foreign nation. He agreed he would never divulge anything marked as SCI or that he knew to be SCI to anyone who is not authorized to receive it without prior written authorization from the United States government. He acknowledged that he was obligated by law and regulation not to disclose any classified information in an unauthorized fashion. FRANKLIN again acknowledged that unauthorized disclosure of that information "may constitute violations of United States criminal laws, including the provisions of Sections 793, 794, 798, and 952, Title 18, United States Code."

3. At no time was FRANKLIN authorized to release classified information to co-defendants ROSEN and WEISSMAN, except with respect to Overt Acts 43 and 44 in Count One. At no time was FRANKLIN ever authorized to de-classify classified information.

4. Defendant STEVEN J. ROSEN was employed as the Director of Foreign Policy Issues for the American Israel Public Affairs Committee (AIPAC) in Washington, D.C. ROSEN was hired by AIPAC in or about July 1982. AIPAC, according to its website, is "America's Pro-Israel Lobby." AIPAC lobbies the U.S. Congress and Executive Branch agencies on various issues related to Israel and U.S. foreign policy in the Middle East. As the Director of Foreign Policy Issues, ROSEN lobbied on behalf of AIPAC, primarily with officials within the Executive Branch of the U.S. government. During the time period of this indictment, ROSEN did not have

a U.S. government security clearance and was not authorized to receive or possess U.S. government classified information.

5. From 1978-1982, ROSEN was a Social Scientist at the RAND Corporation (RAND) in Santa Monica, California. ROSEN was initially granted a U.S. government Secret security clearance on or about August 31, 1978, for his work at RAND. ROSEN was later authorized to hold a Top Secret U.S. government security clearance on or about July 18, 1979. These clearances were issued by the Defense Industrial Security Clearance Organization (DISCO), which processes security clearances for U.S. government contractors.

6. Based upon the Top Secret security clearance granted to ROSEN by DISCO on July 18, 1979, the Central Intelligence Agency (CIA) granted ROSEN a Secret Industrial security clearance on July 17, 1980 for CIA contracts on which he would work while at RAND Corporation. On August 8, 1980, ROSEN signed the requisite U.S. government secrecy agreement (Form 10-71 1060). In that document, ROSEN acknowledged that he had read and understood the provisions of the espionage laws (sections 793, 794 and 798 of Title 18, United States Code) concerning the disclosure of information relating to the national defense and that he was familiar with the penalties provided for any violation thereof. Additionally, he agreed that he would never divulge, publish or reveal either by word, conduct, or any other means, such information or intelligence unless specifically authorized to do so by an authorized representative of the U.S. government. Further, ROSEN indicated he understood that this agreement would remain binding upon him after termination of his relationship with the U.S. government. ROSEN's Secret Industrial security clearance for work on the CIA contracts was terminated on or about July 6, 1982.

7. Defendant KEITH WEISSMAN was employed as the Senior Middle East Analyst in the Foreign Policy Issues department at AIPAC. WEISSMAN was hired by AIPAC in 1993. While employed at AIPAC, WEISSMAN worked closely with STEVEN ROSEN in lobbying on behalf of AIPAC, primarily with officials within the Executive Branch of the U.S. government. WEISSMAN did not have a U.S. government security clearance and was not authorized to receive or possess U.S. government classified information.

8. Pursuant to Executive Order 12958, as amended by Executive Order 13292, national security information is classified as "Top Secret," "Secret" or "Confidential." The designation "Top Secret" applies to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security. The designation "Secret" applies to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to national security. The designation "Confidential" applies to information, the unauthorized disclosure of which reasonably could be expected to cause damage to national security. Access to classified information at any level may be further restricted through compartmentation in SCI categories. Classified information, of any designation, may only be shared with persons determined by an appropriate U.S. government official to be eligible for access to classified information, who have signed an approved non-disclosure agreement and who possess a need to know. If a person is not eligible to receive classified information, classified information may not be disclosed to that person.

COUNT ONE

Conspiracy to Communicate National Defense Information

THE GRAND JURY FURTHER CHARGES THAT:

Between in or about April 1999 and continuing until on or about August 27, 2004, in the Eastern District of Virginia and elsewhere, defendants LAWRENCE ANTHONY FRANKLIN, STEVEN J. ROSEN, and KEITH WEISSMAN did unlawfully, knowingly and willfully conspire, confederate and agree together and with others, known and unknown to the Grand Jury, to commit the following offenses against the United States:

1) having lawful possession of, access to, and control over information relating to the national defense, did willfully communicate, deliver and transmit that information directly and indirectly to a person or persons not entitled to receive it, having reason to believe that said information could be used to the injury of the United States and to the advantage of any foreign nation, a violation of Title 18, United States Code, Section 793(d); and

2) having unauthorized possession of, access to, and control over information relating to the national defense, did willfully communicate, deliver and transmit that information directly and indirectly to a person or persons not entitled to receive it, having reason to believe that said information could be used to the injury of the United States and to the advantage of any foreign nation, a violation of Title 18, United States Code, Section 793(e).

WAYS, MANNER AND MEANS OF THE CONSPIRACY

A. It was part of the conspiracy that, in an effort to influence persons within and outside the United States government, ROSEN and WEISSMAN would cultivate relationships with FRANKLIN and others and would use their contacts within the U.S. government and

elsewhere to gather sensitive U.S. government information, including classified information relating to the national defense, for subsequent unlawful communication, delivery and transmission to persons not entitled to receive it.

B. It was further part of the conspiracy that FRANKLIN would use his position as a desk officer in the Office of the Secretary of Defense to gather information relating to the national defense, for subsequent unlawful communication, delivery and transmission to ROSEN and WEISSMAN and others not entitled to receive it.

C. It was further part of the conspiracy that FRANKLIN, ROSEN and WEISSMAN would meet at locations in the Eastern District of Virginia and elsewhere, to exchange information, including classified information relating to the national defense.

D. It was further part of the conspiracy that FRANKLIN would unlawfully deliver, communicate and transmit classified national defense information in an effort to advance his own personal foreign policy agenda and influence persons within and outside the United States government.

E. It was further part of the conspiracy that ROSEN and WEISSMAN, without lawful authority, would communicate to persons not entitled to receive it, classified information relating to the national defense.

OVERT ACTS

In furtherance of the conspiracy and to effect the object thereof, defendants FRANKLIN, ROSEN, and WEISSMAN did commit overt acts in the Eastern District of Virginia and elsewhere, including but not limited to the following:

1. On or about April 13, 1999, ROSEN had a conversation with Foreign Official 1 (FO-1) and told FO-1 that he (ROSEN) had "picked up an extremely sensitive piece of intelligence" which ROSEN described as codeword protected intelligence. ROSEN then disclosed to FO-1 national defense information concerning terrorist activities in Central Asia.

2. On or about May 12, 1999, ROSEN and FO-1 met for lunch and further discussed the disclosure ROSEN made on April 13, 1999.

3. On or about June 11, 1999, WEISSMAN had a conversation with FO-1 and told FO-1 that a "Secret FBI, classified FBI report" on the Khobar Towers bombing had been prepared and that he (WEISSMAN) had gotten this information from three different sources, including United States government officials.

4. On or about June 11, 1999, WEISSMAN had another conversation with FO-1 and told FO-1 that he (WEISSMAN) had gotten a member of the media interested in the above-referenced classified FBI report on the Khobar Towers bombing.

5. On or about December 12, 2000, ROSEN and WEISSMAN met with a United States government official (USGO-1). Following the meeting, ROSEN had a conversation with a member of the media to whom he gave information about classified United States strategy options against a Middle Eastern country and the internal United States government deliberations on those options. USGO-1, with whom ROSEN and WEISSMAN met, had access to the classified information ROSEN disclosed.

6. On or about January 18, 2002, ROSEN met with another United States government official (USGO-2). After the meeting and on that same day, a memorandum

containing information ROSEN had obtained from USGO-2 was sent to fellow AIPAC employees. The memorandum contained classified information provided by USGO-2.

7. On or about January 23, 2002, ROSEN had a conversation with a foreign national and disclosed classified information provided to ROSEN by USGO-2 during their January 18, 2002 meeting.

8. On or about March 12, 2002, ROSEN and USGO-2 met and discussed classified information regarding Al-Qaeda.

9. On or about March 13, 2002, ROSEN disclosed to a fellow AIPAC employee classified information regarding Al-Qaeda that had been provided by USGO-2.

10. On or about March 14, 2002, ROSEN met with Foreign Official 2 (FO-2) and disclosed classified information regarding Al-Qaeda, previously provided by USGO-2 on March 12, 2002.

11. On or about August 5, 2002, ROSEN called a Department of Defense employee (DoD employee A) at the Pentagon and asked for the name of someone in OSD ISA with an expertise on Iran and was given the name of defendant LAWRENCE FRANKLIN.

12. On or about August 15, 2002, after FRANKLIN called ROSEN and left a message saying that he had heard that ROSEN was interested in issues concerning Iran, ROSEN called FRANKLIN and left his cell phone number and said he would like to meet.

13. On or about August 20, 2002, FRANKLIN and ROSEN spoke on the telephone and arranged to meet the next day. ROSEN advised that he was bringing his colleague, KEITH WEISSMAN.

14. On or about August 21, 2002, FRANKLIN called ROSEN, and they agreed to postpone their meeting. FRANKLIN advised ROSEN that he had seven or eight issues he wanted to discuss with him, and the issues were not limited to Iran.

15. On or about February 7, 2003, FRANKLIN and a DoD employee (DoD employee B) agreed to meet with ROSEN and WEISSMAN.

16. On or about February 12, 2003, in a telephone conversation with another individual while en route to the meeting with FRANKLIN, ROSEN stated that he was excited to meet with a "Pentagon guy" because this person was a "real insider."

17. On or about February 12, 2003, FRANKLIN, DoD employee B, ROSEN, and WEISSMAN met for breakfast at a restaurant in Arlington, Virginia, whereupon FRANKLIN disclosed to ROSEN and WEISSMAN national defense information relating to a classified draft internal United States government policy document concerning a Middle Eastern country. FRANKLIN told ROSEN and WEISSMAN that he had also prepared a separate document in connection with this policy document.

18. On or about February 12, 2003, ROSEN and WEISSMAN discussed the information FRANKLIN had given as it related to a draft article written by a journalist concerning United States foreign policy toward a country in the Middle East. ROSEN questioned the accuracy of the journalist's information.

19. On or about February 14, 2003, FRANKLIN and ROSEN discussed FRANKLIN's prospects for a position on the National Security Council (NSC) staff, and ROSEN told FRANKLIN that by working at the NSC that he would be "by the elbow of the President." FRANKLIN asked ROSEN to "put in a good word" for him, and ROSEN said, "I'll

do what I can." ROSEN ended the conversation by telling FRANKLIN that he hoped they would keep in touch and that breakfast was a real "eye-opener."

20. On or about March 7, 2003, ROSEN called FRANKLIN at the Pentagon and arranged to meet early one morning at Union Station, in Washington, D.C.

21. On or about March 10, 2003, FRANKLIN, ROSEN and WEISSMAN met at Union Station early in the morning. In the course of the meeting, the three men moved from one restaurant to another restaurant and then finished the meeting in an empty restaurant.

22. On or about March 12, 2003, FRANKLIN called ROSEN from his office in the Pentagon and left a message saying that he was trying to fax a document to ROSEN and WEISSMAN but was unable to do so and wanted to make sure ROSEN was present to receive it.

23. On or about March 13, 2003, FRANKLIN spoke with ROSEN and was provided with ROSEN's home fax number. FRANKLIN told ROSEN that he preferred to send the fax to ROSEN's residence.

24. On or about March 13, 2003, ROSEN met FO-2, who was assigned to a foreign embassy in Washington, D.C. ROSEN disclosed to FO-2 information related to the classified draft internal United States government policy document that he had discussed with FRANKLIN. ROSEN also told FO-2 about the internal deliberations of United States government officials concerning the policy document that FRANKLIN had disclosed to ROSEN and WEISSMAN.

25. On or about March 13, 2003, after his breakfast with FO-2, ROSEN had a conversation with FO-1, who was from the same embassy as FO-2. ROSEN asked FO-1 if he had heard, from FO-2, "the interesting report" he had given him concerning the classified draft internal policy document. ROSEN then discussed the specifics in the document with FO-1.

ROSEN and FO-1 also discussed whether a specific United States government official was aware of this information and how the deliberations would proceed.

26. On or about March 13, 2003, WEISSMAN had a separate conversation with FO-1. WEISSMAN asked FO-1, "Have you talked to Steve about Iran lately?" WEISSMAN related that "we" had heard from a "friend of ours in the Pentagon" about a national intelligence document. WEISSMAN discussed specifics about the classified draft internal policy document and the internal deliberations of United States government officials.

27. On or about March 13, 2003, ROSEN disclosed to a senior fellow at a Washington, D.C. think tank the information relating to the classified draft internal policy document concerning a Middle Eastern country and the internal deliberations of United States government officials that had been provided to ROSEN by FRANKLIN. ROSEN disclosed details from the document and encouraged the official to use his contacts to investigate further. The senior fellow advised ROSEN that he would follow up and see what he could do.

28. On or about March 17, 2003, FRANKLIN faxed, from the Pentagon to ROSEN's office fax machine, a document he had typed himself. The contents of this document appeared in the classified appendix to the classified draft internal policy document FRANKLIN had previously discussed with ROSEN and WEISSMAN on February 12, 2003.

29. On or about March 18, 2003, in a conversation with a member of the media about the classified draft internal policy document, ROSEN stated, "I'm not supposed to know this," and that it was a "considerable story." He encouraged the member of the media to pursue the story.

30. On or about May 30, 2003, in a conversation with another member of the media, ROSEN discussed the classified draft internal policy document and internal United States government deliberations about the document.

31. On or about June 3, 2003, WEISSMAN called FRANKLIN and left a message. Without naming the country, he said that he and ROSEN wanted to meet and talk about "our favorite country."

32. On or about June 24, 2003, WEISSMAN called FRANKLIN and asked FRANKLIN to obtain a document for him. While the document itself was not classified, WEISSMAN told FRANKLIN that he knew "the Agency" had a copy. FRANKLIN told WEISSMAN he would try to get WEISSMAN a copy and that he had a friend at the CIA if he could not get it anywhere else.

33. On or about June 24, 2003, ROSEN and WEISSMAN talked about arranging to have lunch with FRANKLIN.

34. On or about June 26, 2003, FRANKLIN, ROSEN and WEISSMAN met for lunch at a restaurant in Arlington, Virginia. FRANKLIN told ROSEN, "You set the agenda." ROSEN stated that he knew that "the constraints" under which FRANKLIN met with them were difficult. The three discussed the previously described classified draft internal policy document, as well as a newspaper article which described the document as classified, and the state of internal United States government deliberations.

35. On or about June 26, 2003, during the aforementioned meeting, FRANKLIN disclosed to ROSEN and WEISSMAN classified information related to potential attacks upon

United States forces in Iraq. FRANKLIN told ROSEN and WEISSMAN that the information was "highly classified" and asked them not to use it.

36. On or about June 26, 2003, ROSEN and WEISSMAN spoke about the luncheon they had earlier attended with FRANKLIN. ROSEN specifically noted the information FRANKLIN had identified as highly classified and stated that it was "quite a story." ROSEN also told WEISSMAN, "Well, look, it seems to me that this channel is one to keep wide open insofar as possible." WEISSMAN replied that he was taking FRANKLIN to a baseball game. ROSEN replied, "Smart guy. That's the thing to do."

37. On or about June 30, 2003, WEISSMAN and FRANKLIN, together, attended a major league baseball game in Baltimore, Maryland.

38. On or about October 24, 2003, FRANKLIN and Foreign Official 3 (FO-3) had a telephone conversation during which they discussed the status of the previously described classified draft internal policy document. FO-3 said he had information that work on the "policy" had stopped, and FRANKLIN confirmed that there had been "nothing on any calendar in regard to that" document.

39. On or about May 21, 2004, FRANKLIN verbally provided to reporters from a national news organization Top Secret/SCI national defense information concerning meetings involving two Middle Eastern officials. Shortly thereafter, the news organization, quoting FRANKLIN, broadcast a report that an unidentified source had specified that the U.S. government had obtained intelligence pertaining to these meetings and further provided details based on information FRANKLIN had supplied to the reporters.

40. On or about June 30, 2004, FRANKLIN, without lawful authority, possessed at his residence in Kearneysville, West Virginia, Top Secret and Secret documents containing national defense information.

41. On or about July 9, 2004, WEISSMAN agreed to meet with Lawrence Franklin, who, unbeknown to WEISSMAN, had begun cooperating with the government.

42. On or about July 9, 2004, after being informed of WEISSMAN's scheduled meeting with Franklin, ROSEN asked WEISSMAN to later advise him as to what Franklin had to say at the meeting.

43. On or about July 9, 2004, in Arlington, Virginia, WEISSMAN met with Franklin and received from him classified national defense information involving United States intelligence related to certain Middle Eastern countries.

44. On or about July 21, 2004, in Arlington, Virginia, WEISSMAN met with Franklin and obtained from Franklin classified national defense information concerning a foreign government's covert actions in Iraq. Before disclosing the information, Franklin warned WEISSMAN that the information he was about to receive was highly classified "Agency stuff" and that WEISSMAN could get into trouble by having the information.

45. On or about July 21, 2004, after meeting with Franklin, WEISSMAN immediately returned to his office, met with ROSEN, and disclosed to ROSEN the classified national defense information he had received from Franklin.

46. On or about July 21, 2004, ROSEN and WEISSMAN had a conversation with FO-3 during which they disclosed classified national information obtained from Franklin earlier that day. ROSEN told FO-3 that the information being disclosed was "Agency" information.

47. On or about July 21, 2004, ROSEN and WEISSMAN had a conversation with a member of the media during which they disclosed classified national defense information provided by Franklin earlier that day. ROSEN told the member of the media that he could not ask about the source of the information, but that the information was "Agency" information and that the source of the information was "an American intelligence source" with whom ROSEN and WEISSMAN had dealt with in the past and was "100 percent credible."

48. On or about July 21, 2004, WEISSMAN disclosed to another AIPAC employee classified national defense information provided by Franklin earlier that day. In his disclosure, WEISSMAN described the information as having come from "an American intelligence source."

49. On or about August 3, 2004, WEISSMAN contacted ROSEN and advised ROSEN that he had been contacted by the FBI. ROSEN advised WEISSMAN that he, too, had been contacted by the FBI. During their conversation, ROSEN and WEISSMAN discussed whether the FBI contact was about "something they picked up at work" and whether the FBI had discovered their contact with the member of the media, referenced above.

50. On or about August 3, 2004, following his above-referenced contact with WEISSMAN, ROSEN was interviewed by FBI agents and falsely told the agents that Franklin had never discussed classified information with him and had never provided him with classified information.

51. On or about August 3, 2004, following his interview with FBI agents, ROSEN contacted WEISSMAN and told him that the FBI talked with him about Franklin.

52. On or about August 9, 2004, WEISSMAN was interviewed by FBI agents and falsely told the agents that Franklin had never discussed classified information with him and had never provided him with classified information.

53. On or about August 20, 2004, WEISSMAN contacted another member of the media and disclosed to that person classified national defense information obtained on July 21, 2004 from Franklin. WEISSMAN further advised that he was trying to arrange a meeting between Franklin and the member of the media.

54. On or about August 27, 2004, in an interview with FBI agents, ROSEN falsely stated that Franklin had never given him classified information and that he (ROSEN) did not know of anyone to whom Franklin had given classified information.

55. On or about August 27, 2004, following his false statements to FBI agents that day, ROSEN contacted FO-2 and asked to meet with FO-2 or FO-3 about a "serious matter." ROSEN also told FO-2 that the FBI had "made some allegations which are important" and added that he did not want to "discuss it on the phone" and did not want to go to FO-2's embassy office.

56. On or about August 27, 2004, following the above-referenced conversation with FO-2, ROSEN went to a restaurant in Washington, D.C. near FO-2's embassy office. Once there, ROSEN approached FO-2 inside the restaurant. The two then proceeded outside where they engaged in conversation.

57. On or about August 27, 2004, WEISSMAN falsely told FBI agents that he did not know if Franklin had disclosed classified information to him.

(In violation of Title 18, United States Code, Section 793(g))

COUNT TWO

Communication of National Defense Information

THE GRAND JURY FURTHER CHARGES THAT:

On or about February 12, 2003, in Arlington, Virginia, within the Eastern District of Virginia, defendant LAWRENCE ANTHONY FRANKLIN, lawfully having possession of, access to, control over, and being entrusted with information relating to the national defense, which information the defendant had reason to believe could be used to the injury of the United States and to the advantage of a foreign nation, did unlawfully, knowingly and willfully communicate, deliver and transmit such information to a person or persons not entitled to receive it.

(In violation of Title 18, United States Code, Section 793(d))

COUNT THREE

Communication of National Defense Information

THE GRAND JURY FURTHER CHARGES THAT:

On or about March 17, 2003, in Arlington, Virginia, within the Eastern District of Virginia and elsewhere, defendant LAWRENCE ANTHONY FRANKLIN, lawfully having possession of, access to, control over, and being entrusted with a document, writing and note relating to the national defense, did unlawfully, knowingly and willfully communicate, deliver and transmit said document, writing and note to a person or persons not entitled to receive it, namely defendant STEVEN J. ROSEN, who did unlawfully, knowingly and willfully aid and abet FRANKLIN in the communication, delivery and transmission of said document, writing and note.

(In violation of Title 18, United States Code, Sections 793(d) and 2)

COUNT FOUR

Communication of National Defense Information

THE GRAND JURY FURTHER CHARGES THAT:

On or about June 26, 2003, in Arlington, Virginia, within the Eastern District of Virginia, defendant LAWRENCE ANTHONY FRANKLIN, lawfully having possession of, access to, control over, and being entrusted with information relating to the national defense, which information the defendant had reason to believe could be used to the injury of the United States and to the advantage of a foreign nation, did unlawfully, knowingly and willfully communicate, deliver and transmit such information to a person or persons not entitled to receive it.

(In violation of Title 18, United States Code, Section 793(d))

COUNT FIVE

Conspiracy to Communicate Classified Information

THE GRAND JURY FURTHER CHARGES THAT:

General Allegations

1. Foreign Official 3 (FO-3) is a diplomatic staff member of the embassy of Foreign Nation A located in Washington, D.C. FO-3 is not a United States citizen.
2. At no time relevant to this indictment was defendant FRANKLIN assigned or instructed to meet with FO-3 in the Washington, D.C. area as part of his OSD or USAFR employment. At no time relevant to this indictment was defendant FRANKLIN authorized to disclose classified information to FO-3.

The Offense

Between on or about August 15, 2002 and continuing until on or about June 30, 2004, in the Eastern District of Virginia and elsewhere, defendant LAWRENCE ANTHONY FRANKLIN, an employee of the United States, did unlawfully and knowingly conspire, confederate, and agree, with persons known and unknown to the Grand Jury, to commit the following offense against the United States: to communicate in a manner and by a means, to a person whom defendant FRANKLIN knew and had reason to believe was an agent and representative of a foreign government, information of a kind which had been classified by the head of a United States agency with the approval of the President, as affecting the security of the United States, said defendant having known and having had reason to know that such information had been so classified, a violation of Title 50, United States Code, Section 783(a).

WAYS, MANNER AND MEANS OF THE CONSPIRACY

A. It was part of the conspiracy that FRANKLIN would use his position as a desk officer in the Office of the Secretary of Defense to gather information, classified as affecting the security of the United States, for subsequent unlawful communication to FO-3 from Foreign Nation A.

B. It was further part of the conspiracy that FRANKLIN would communicate by telephone with FO-3 to arrange meetings, share information, set agendas for meetings and act upon requests for additional information. It was part of the conspiracy to develop a trustworthy relationship between the conspirators and foster an environment in which the defendant felt free to disclose classified information.

C. It was further part of the conspiracy that FRANKLIN and FO-3 would meet at locations in the Eastern District of Virginia and elsewhere, to exchange information, including classified information affecting the security of the United States.

D. It was further part of the conspiracy that FRANKLIN would communicate classified information to FO-3 in an effort to enhance his own standing, advance his own personal foreign policy agenda, and influence persons within and outside the United States government.

OVERT ACTS

In furtherance of the conspiracy and to effect the object thereof, defendant LAWRENCE ANTHONY FRANKLIN and FO-3 did commit overt acts in the Eastern District of Virginia and elsewhere, including but not limited to the following:

1. On or about August 15, 2002, defendant FRANKLIN met with FO-3 at a restaurant in Washington, D.C. FO-3 explained to FRANKLIN that he was the "policy" person at the embassy and he would be the appropriate person with whom the defendant should talk.

2. On or about September 13, 2002, FRANKLIN communicated with one of his contacts at Foreign Nation A's embassy. That contact directed him to FO-3. The defendant and FO-3 exchanged phone calls in September, October, and November in an effort to set up a meeting. FRANKLIN called FO-3 at his office located at the embassy, and FO-3 called the defendant at his office at the Pentagon.

3. On or about January 30, 2003, the defendant and FO-3 met near Foreign Nation A's embassy in Washington, D.C. The subject of the discussion at this meeting was a Middle Eastern country's nuclear program.

4. In or about February, March, and April of 2003, FRANKLIN and FO-3 spoke by telephone and set up appointments to meet. The defendant called FO-3 from his office in the Pentagon.

5. On or about May 2, 2003, FRANKLIN met with FO-3 at the Pentagon Officer's Athletic Club (POAC), located adjacent to the Pentagon, within the Eastern District of Virginia. At this meeting, the two discussed foreign policy issues and senior United States government officials.

6. On or about May 23, 2003, FRANKLIN again met FO-3 at the POAC. At this meeting, the two discussed issues concerning a Middle Eastern country and its nuclear program and the views held by Europe and certain United States government agencies with regard to that

issue. Following this meeting, the defendant drafted an Action Memo to his supervisors, incorporating suggestions made by FO-3 during the meeting.

7. On or about June 3, 2003, FRANKLIN met with FO-3 at the POAC, and the discussion centered on a specific person, not in the United States government, and her thoughts concerning the nuclear program of the Middle Eastern country and, separately, certain charity efforts in Foreign Nation A.

8. On or about July 11, 2003, FRANKLIN met with FO-3 at the POAC and discussed certain charity work being done in a foreign nation.

9. On or about August 8, 2003, the defendant met with FO-3.

10. On or about August 29, 2003, the defendant met with FO-3 at the POAC.

11. On or about October 9, 2003, FRANKLIN met with FO-3 at a sandwich shop near the United States Department of State headquarters. The defendant asked FO-3 to provide him with a letter for his daughter, to aid her in her travels to the Middle East and Foreign Nation A.

12. On or about January 15, 2004, FRANKLIN met FO-3 and again asked FO-3 to provide some type of letter for his daughter for her travel to the Middle East, including Foreign Nation A.

13. On or about February 13, 2004, FRANKLIN met FO-3 at the POAC. At this meeting, FO-3 suggested to the defendant that he should meet with a person previously associated with an intelligence agency of Foreign Nation A who was then running a think tank in Foreign Nation A. FO-3 also gave the defendant a gift card.

14. On or about February 20, 2004, FRANKLIN met in the cafeteria at the Pentagon with this person previously associated with an intelligence agency of Foreign Nation A and discussed a Middle Eastern country's nuclear program.

15. In or about late February 2004, the defendant and FO-3 exchanged telephone calls about certain foreign organizations.

16. On or about May 13, 2004, FO-3 faxed a letter from his embassy office to FRANKLIN's Pentagon fax relating to the defendant's daughter's travel to Foreign Nation A.

17. On or about June 8, 2004, FRANKLIN and FO-3 met at a coffee house in Washington, D.C. At this meeting, the defendant provided FO-3 with classified information he had learned from a classified United States government document related to a Middle Eastern country's activities in Iraq. The defendant was not authorized to disclose this classified information to FO-3.

18. On June 23, 2004, FRANKLIN met FO-3 and another official from Foreign Nation A at the Pentagon. The parties discussed the military situation in Iraq. The defendant provided FO-3 with an unclassified copy of a speech and list of questions that a senior United States government official was to give that day or the next before the Congressional Foreign Affairs Committee.

19. Between December 2003 and June 2004, at an unknown location, FRANKLIN disclosed to FO-3 classified United States government information relating to a weapons test conducted by a Middle Eastern country.


(In violation of Title 18, United States Code, Section 371.)

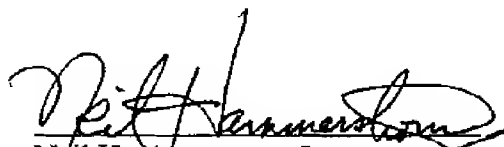
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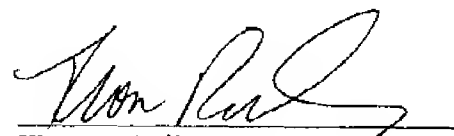
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